

AMENDED IN ASSEMBLY MAY 2, 2011

AMENDED IN ASSEMBLY FEBRUARY 28, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 218

Introduced by Assembly Member Wieckowski
(Principal coauthor: Assembly Member Gatto)
(Coauthor: Assembly Member Bonnie Lowenthal)

February 1, 2011

An act to amend Section 14302 of, to add Section 6377.1 to, to add Part 9 (commencing with Section 15000) to Division 2 of, and to repeal Section 13301 of, the Revenue and Taxation Code, relating to taxation, and calling a special election to be consolidated with the next statewide general election, to take effect immediately as an act calling an election.

LEGISLATIVE COUNSEL'S DIGEST

AB 218, as amended, Wieckowski. Taxation: estate taxes and sales and use taxes.

(1) Existing law, added by Proposition 6, an initiative measure enacted by voters at the June 8, 1982, statewide primary election (hereafter the initiative measure), prohibits the imposition of any tax on or by reason of any transfer occurring by reason of death, but imposes a California estate tax, commonly referred to as the “pick up tax” equal to a certain portion of the maximum allowable amount of credit for state death taxes allowable under the applicable federal estate tax law. Due to changes in federal law, the pick up tax became inoperative as of January 1, 2005. *Existing law, for the 2010–11 fiscal year, reduces an appropriation from the General Fund to the Controller for subvention*

payments to counties under the Williamson Act from \$10,000,000 to zero.

This bill would declare the Legislature's intent to propose an amendment to the initiative measure to provide a state sales and use tax exemption for purchases of manufacturing equipment used in the manufacturing process and to use the revenue generated from imposing a California estate tax to *fully fund the Williamson Act subventions and* to supplant the reduction of General Fund revenue resulting from the exemption for purchases of manufacturing equipment.

The bill would propose to the voters of the state a repeal of the provision of the initiative measure prohibiting the imposition of a tax on or by reason of any transfer occurring by reason of death. The proposed amendment to the initiative measure would impose an estate tax upon the transfer of property of every decedent with an estate valued at more than \$1,000,000, in accordance with specified criteria and procedures, during the timeframe for which the California pick up tax provisions are inoperative. The proposed amendment would also require the Controller to administer and collect the tax imposed, and would require the personal representative of every estate subject to the tax to file with the Controller a return and to pay the tax in the form prescribed by the Controller. The proposed amendment would make the personal representative of a decedent's estate personally liable for payment of the estate tax, and would provide that any personal representative failing to perform these duties shall forfeit any right to payment for settling the estate. The tax imposed by the proposed amendment would be a special lien upon the gross estate of a decedent, extinguishable as specified. Pursuant to those provisions, no tax would be imposed for any period for which a federal estate tax is payable to the United States and federal tax laws allow a credit for state death taxes in an amount that would otherwise be imposed.

(2) Existing law establishes the Estate Tax Fund and continuously appropriates the moneys in the fund to pay refunds for estate taxes and generation skipping transfer taxes, as specified, with the balance of the money in that fund being transferred to the unappropriated surplus in the General Fund, upon order of the Controller.

This bill would propose to the voters an amendment of the initiative measure to reallocate the moneys in the Estate Tax Fund, whereby those moneys would be continuously appropriated to pay refunds for estate taxes, including those imposed upon estates valued at \$1,000,000 or more, and generation skipping transfer taxes. The amendment to the

initiative measure would further provide that *after payment of refunds, those moneys shall be continuously appropriated, without regard to fiscal year, to make subvention payments to counties under the Williamson Act, and the remaining balance of the moneys in the fund shall be transferred to the unappropriated surplus in the General Fund. The amendment to the initiative measure would additionally propose to exempt from the estate tax the value of specified agricultural real property and agricultural personal property, if certain conditions are met.*

(3) The Sales and Use Tax Law imposes a tax on retailers measured by the gross receipts from the sale of tangible personal property sold at retail in this state, or on the storage, use, or other consumption in this state of tangible personal property purchased from a retailer for storage, use, or other consumption in this state, and provides various exemptions from the taxes imposed by that law.

The bill would propose an amendment to the initiative measure to exempt from those sales and use taxes the gross receipts from the sale of, and the storage, use, or other consumption of, tangible personal property, as defined, purchased for use by a qualified person, as defined, to be used in manufacturing, processing, refining, fabricating, recycling of property, or other specified processes, and tangible personal property purchased for use by a contractor for specified purposes, as provided. This amendment would specify that this exemption does not apply to local sales and use taxes, transactions and use taxes, and specified state sales and use taxes. The amendment would permit its provisions to be amended by a bill passed by a $\frac{2}{3}$ vote of the membership of both houses of the Legislature and signed by the Governor.

(4) Existing law prohibits amendment of the initiative measure by the Legislature unless the amendment is approved by the voters.

This bill would call a special election to be consolidated with the next statewide general election. It would condition the amendment of the initiative measure upon voter approval, and would require the Secretary of State to submit the provisions of the bill that amend the initiative statute to the voters for their approval at the next consolidated statewide election.

This bill would declare that it is to take effect immediately as an act calling an election.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. (a) It is the intent of the Legislature to propose an amendment to Proposition 6, an initiative measure enacted by the voters at the June 8, 1982, statewide primary election (hereafter the initiative measure).

(b) It is the intent of the Legislature, in proposing this amendment to the initiative measure, to provide a state sales and use tax exemption for purchases of manufacturing equipment used in the manufacturing process. It is further the intent of the Legislature, in proposing this amendment, that the revenue generated from a proposed estate tax be used, in whole or in part, to *fully fund the Williamson Act subventions* and supplant the reduction of General Fund revenue as a result of the exemption for purchases of manufacturing equipment used in the manufacturing process.

(c) This act shall be known and may be cited as the Job Retention and Economic Recovery Act.

SEC. 2. Section 6377.1 is added to the Revenue and Taxation Code, to read:

6377.1. (a) (1) ~~There~~ *On and after six months of the enactment of this section, there* are exempted from the taxes imposed by this part, the gross receipts from the sale of, and the storage, use, or other consumption in this state of, all of the following:

(A) Tangible personal property purchased for use by a qualified person to be used primarily in any stage of the manufacturing, processing, refining, fabricating, or recycling of property, beginning at the point any raw materials are received by the qualified person and introduced into the process and ending at the point at which the manufacturing, processing, refining, fabricating, or recycling has altered property to its completed form, including packaging, if required.

(B) Tangible personal property purchased for use by a contractor purchasing that property for use in the performance of a construction contract for the qualified person who will use the property as an integral part of the manufacturing, processing, refining, fabricating, or recycling process, or as a storage facility for use in connection with the manufacturing process.

(2) Subdivision (a) shall not apply to the gross receipts from the sale of, and the storage, use, or other consumption of, tangible

1 personal property that is used primarily in administration, general
2 management, or marketing.

3 (b) For purposes of this section:

4 (1) “Fabricating” means to make, build, create, produce, or
5 assemble components or property to work in a new or different
6 manner.

7 (2) “Manufacturing” means the activity of converting or
8 conditioning property by changing the form, composition, quality,
9 or character of the property for ultimate sale at retail or use in the
10 manufacturing of a product to be ultimately sold at retail.
11 Manufacturing includes any improvements to tangible personal
12 property that result in a greater service life or greater functionality
13 than that of the original property.

14 (3) “Primarily” means tangible personal property used 50 percent
15 or more of the time in an activity described in subdivision (a).

16 (4) “Process” means the period beginning at the point at which
17 any raw materials are received by the qualified person and
18 introduced into the manufacturing, processing, refining, fabricating,
19 or recycling activity of the qualified person and ending at the point
20 at which the manufacturing, processing, refining, fabricating, or
21 recycling activity of the qualified person has altered tangible
22 personal property to its completed form, including packaging, if
23 required. Raw materials shall be considered to have been
24 introduced into the process when the raw materials are stored on
25 the same premises where the qualified person’s manufacturing,
26 processing, refining, or recycling activity is conducted. Raw
27 materials that are stored on premises other than where the qualified
28 person’s manufacturing, processing, refining, fabricating, or
29 recycling activity is conducted, shall not be considered to have
30 been introduced into the manufacturing, processing, refining,
31 fabricating, or recycling process.

32 (5) “Processing” means the physical application of the materials
33 and labor necessary to modify or change the characteristics of
34 property.

35 (6) “Qualified person” means either of the following:

36 (A) A person who is primarily engaged in those lines of business
37 described in Codes 3111 to 3399, inclusive, or 5112 of the North
38 American Industry Classification System (NAICS) published by
39 the United States Office of Management and Budget, 2007 edition.

1 (B) An affiliate of a person described in subparagraph (A)
2 provided that the affiliate is a member of the qualified person's
3 unitary group for which a combined report is required to be filed
4 under Article 1 (commencing with Section 25101) of Chapter 17
5 of Part 11.

6 (7) "Refining" means the process of converting a natural
7 resource to an intermediate or finished product.

8 (8) "Tangible personal property" includes, but is not limited to,
9 all of the following:

10 (A) Machinery and equipment, including component parts and
11 contrivances such as belts, shafts, moving parts, and operating
12 structures.

13 (B) Equipment or devices used or required to operate, control,
14 regulate, or maintain the machinery and equipment, including,
15 without limitation, computers, data processing equipment, and
16 computer software, together with all repair and replacement parts
17 with a useful life of one or more years, whether purchased
18 separately or in conjunction with a complete machine and
19 regardless of whether the machine or component parts are
20 assembled by the qualified person or another party. *Any repair
21 and replacement parts that the qualified person treats as having
22 a useful life of one or more years for state income or franchise
23 tax purposes shall be presumed to have a useful life of one or more
24 years for purposes of this section.*

25 (C) Property used in pollution control that meets standards
26 established by this state or any local or regional governmental
27 agency within this state.

28 (D) Special purpose buildings and foundations used as an
29 integral part of the manufacturing, processing, refining, or
30 fabricating process, or that constitute a research or storage facility
31 used during the manufacturing process. Buildings used solely for
32 warehousing purposes after completion of the manufacturing
33 process are not included.

34 (E) Fuels used or consumed in the manufacturing process.

35 (9) "Tangible personal property" does not include any of the
36 following:

37 (A) Consumables with a normal useful life of less than one year,
38 except as provided in subparagraph (E) of paragraph (8). *For
39 purposes of this section, it shall be presumed that tangible personal
40 property that the person treats as having a normal useful life of*

1 *less than one year for state income or franchise tax purposes is*
2 *tangible personal property with a normal useful life of less than*
3 *one year.*

4 (B) Furniture, inventory, and equipment used in the extraction
5 process, or equipment used to store finished products that have
6 completed the manufacturing process.

7 (c) No exemption shall be allowed under this section unless the
8 purchaser furnishes the retailer with an exemption certificate,
9 completed in accordance with any instructions or regulations as
10 the board may prescribe, and the retailer subsequently furnishes
11 the board with a copy of the exemption certificate. The exemption
12 certificate shall contain the sales price of the machinery or
13 equipment that is exempt pursuant to subdivision (a).

14 (d) (1) Notwithstanding any provision of the Bradley-Burns
15 Uniform Local Sales and Use Tax Law (Part 1.5 (commencing
16 with Section 7200)) or the Transactions and Use Tax Law (Part
17 1.6 (commencing with Section 7251)), the exemption established
18 by this section shall not apply with respect to any tax levied by a
19 county, city, or district pursuant to, or in accordance with, either
20 of those laws.

21 (2) Notwithstanding subdivision (a), the exemption established
22 by this section shall not apply with respect to any tax levied
23 pursuant to Section 6051.2, 6051.5, ~~6201.2~~, or ~~6201.5~~ or 6201.2,
24 or pursuant to Section 35 of Article XIII of the California
25 Constitution.

26 (e) Notwithstanding subdivision (a), the exemption provided
27 by this section shall not apply to any sale or use of property that,
28 within three years from the date of purchase, is either removed
29 from California, converted from an exempt use under subdivision
30 (a) to some other use not qualifying for the exemption, or used in
31 a manner not qualifying for the exemption. The taxpayer that has
32 received the exemption under this section for purchasing qualifying
33 personal property shall notify the board if the property is either
34 removed from California, converted from an exempt use under
35 subdivision (a) within three years from the date of purchase, or
36 used in a manner not qualifying for the exemption.

37 (f) If a purchaser certifies in writing to the seller that the property
38 purchased without payment of the tax will be used in a manner
39 entitling the seller to regard the gross receipts from the sale as
40 exempt from the sales tax, and within three years from the date of

1 purchase, the purchaser (1) removes that property outside
2 California, (2) converts that property for use in a manner not
3 qualifying for the exemption, or (3) uses that property in a manner
4 not qualifying for the exemption, the purchaser shall be liable for
5 payment of sales tax, with applicable interest, as if the purchaser
6 were a retailer making a retail sale of the property at the time the
7 property is so removed, converted, or used, and the sales price of
8 the property to the purchaser shall be deemed the gross receipts
9 from that retail sale.

10 ~~(g) This section applies to leases of tangible personal property~~
11 ~~classified as “continuing sales” and “continuing purchases” in~~
12 ~~accordance with Sections 6006.1 and 6010.1. The exemption~~
13 ~~established by this section shall apply to the rentals payable~~
14 ~~pursuant to such a lease, if the lessee is a qualified person and the~~
15 ~~property is used in an activity described in subdivision (a).~~

16 SEC. 3. Section 13301 of the Revenue and Taxation Code is
17 repealed.

18 SEC. 4. Section 14302 of the Revenue and Taxation Code is
19 amended to read:

20 14302. The moneys in the Estate Tax Fund shall be distributed
21 as follows:

22 (a) The moneys are continuously appropriated, without regard
23 to fiscal year, to pay the refunds authorized by this part, Part 9
24 (commencing with Section 15000), and Part 9.5 (commencing
25 with Section 16700).

26 *(b) After payment of refunds pursuant to subdivision (a), the*
27 *moneys are continuously appropriated, without regard to fiscal*
28 *year, to make subvention payments to counties under the*
29 *Williamson Act pursuant to Section 16140 of the Government Code*
30 *in proportion to the losses incurred by those counties by reason*
31 *of the reduction of assessed property taxes.*

32 ~~(b)~~

33 (c) The remaining balance of the moneys in the fund shall, on
34 order of the Controller, be transferred to the unappropriated surplus
35 in the General Fund.

36 SEC. 5. Part 9 (commencing with Section 15000) is added to
37 Division 2 of the Revenue and Taxation Code, to read:

PART 9. ESTATE TAX

15000. Except where the context otherwise requires, the following definitions govern the construction of this part:

(a) “Decedent” means any person whose death gives rise to a transfer.

(b) “Estate” means the real or personal property or interest therein included in the gross estate of a decedent and includes all of the following:

(1) All intangible personal property included in the gross estate of a resident decedent within or without the state or subject to the jurisdiction thereof.

(2) All intangible personal property in California included in the gross estate of a nonresident decedent of the United States, including all stock of a corporation organized under the laws of California or which has its principal place of business or does the major part of its business in California or of a federal corporation or national bank which has its principal place of business or does the major part of its business in California, excluding, however, savings accounts in savings and loan associations operating under the authority of the Division of Savings and Loan or the Federal Home Loan Bank board and bank deposits, unless those deposits are held and used in connection with a business conducted or operated, in whole or in part, in California.

(c) “Estate tax” or “tax” means the tax imposed under this part.

(d) “Federal estate tax” means the tax imposed under the Internal Revenue Code (26 U.S.C. Sec. 2001 et seq.), as amended.

(e) “Gross estate” means “gross estate” as defined in Section 2051 2031 of the Internal Revenue Code as amended.

(f) “Personal representative” means any executor or administrator of the decedent whose death gives rise to a transfer and, with respect to property that is included in the gross estate for federal estate tax purposes and which is not in the possession or control of the personal representative, any person in possession of such property.

(g) “State,” except where the context otherwise indicates, means this state or any other state of the United States or the District of Columbia.

(h) “Transfer” means the inclusion of any property or other interest included in the estate or gross estate of the decedent.

15001. (a) Notwithstanding any other law, an estate tax is hereby imposed upon the transfer of the property of every decedent who was a resident of this state at the time of death, in accordance with subdivision (b).

(b) An estate valued at more than one million dollars (\$1,000,000) shall be taxed in accordance with the following:

Estate's Value is:	Tax Rate is:
Over \$1,000,000 but not over \$1,540,000.....	\$38,800 plus 7.2% of excess over \$1,000,000
Over \$1,540,000 but not over \$2,040,000.....	\$70,800 plus 8.0% of excess over \$1,540,000
Over \$2,040,000 but not over \$2,540,000.....	\$106,800 plus 8.8% of excess over \$2,040,000
Over \$2,540,000 but not over \$3,040,000.....	\$146,800 plus 9.6% of excess over \$2,540,000
Over \$3,040,000 but not over \$3,540,000.....	\$190,800 plus 10.4% of excess over \$3,040,000
Over \$3,540,000 but not over \$4,040,000.....	\$238,800 plus 11.2% of excess over \$3,540,000
Over \$4,040,000 but not over \$5,040,000.....	\$290,800 plus 12% of excess over \$4,040,000
Over \$5,040,000 but not over \$6,040,000.....	\$402,800 plus 12.8% of excess over \$5,040,000
Over \$6,040,000 but not over \$7,040,000.....	\$522,800 plus 13.6% of excess over \$6,040,000
Over \$7,040,000 but not over \$8,040,000.....	\$650,800 plus 14.4% of excess over \$7,040,000
Over \$8,040,000 but not over	

1	\$9,040,000.....	\$786,800 plus 15.2% of excess
2		over \$8,040,000
3	Over \$9,040,000 but not over	
4	\$10,040,000.....	\$930,800 plus 16% of excess over
5		\$9,040,000
6	Over \$10,040,000	\$1,082,000 plus 16.8% of excess
7		over \$10,040,000

15002. (a) The estate of every decedent who was a resident of this state at the time of death shall be allowed a credit against the tax otherwise due under this part for the aggregate amount of all estate, inheritance, legacy, and succession taxes actually paid to any other state with respect to any property owned by that decedent or subject to those taxes as part of or in connection with the estate and for which a credit for those taxes paid to any other state is allowable under the federal estate tax laws. *decendent that are taxable under that state law.*

(b) The credit allowed under this section for taxes paid to any other state shall be limited to that amount that does not reduce the tax due under this part to an amount less than the credit allowable by federal estate tax laws for estate, inheritance, legacy and succession taxes paid to any state *proportionate share of California computed tax to the total estate. The full 100 percent state tax amount is multiplied by a fraction:*

(1) The numerator of which is the value of that part of the decedent's ~~taxable~~ gross estate for federal estate tax purposes consisting of real and tangible personal property located in this state plus all intangible personal property.

(2) The denominator of which is the value of the decedent's ~~taxable~~ gross estate for federal estate tax purposes, ~~excluding real and tangible personal property not located in any state..~~

15003. (a) A tax is imposed upon the transfer of the estate of every decedent who at the time of death was a nonresident of this state and owned real or tangible personal property situated in this state that would have been taxable under the provisions of Chapter 11 of the Internal Revenue Code as it was in effect as of January 1, 2001, and other provisions of the federal estate tax laws with respect to the duty to file a return and the calculation of the taxable estate in effect on the earlier of the date of the decedent's death or

1 the date immediately preceding the effective date of the repeal of
2 the federal estate tax.

3 (b) The amount of the tax shall be computed in the same manner
4 as provided in Section 15001, the result of which is then multiplied
5 by a fraction:

6 (1) The numerator of which is the value of that part of the
7 decedent's taxable estate determined pursuant to this section
8 consisting of real and tangible personal property located in this
9 state.

10 (2) The denominator of which is the value of the decedent's
11 entire taxable estate determined pursuant to this section, excluding
12 real and tangible personal property not located in any state.

13 15004. (a) The Controller shall administer and collect the tax
14 imposed by this part.

15 (b) The personal representative of every estate subject to the
16 tax imposed by this part shall file with the Controller an estate tax
17 return and ~~the a federal Internal Revenue Service Form 706,~~
18 *regardless of the federal filing requirement. The* calculation of the
19 taxable estate in effect on the decedent's death *shall be included*
20 *with the California return.* The personal representative shall pay
21 the tax and file the estate tax return in the form prescribed by the
22 Controller.

23 (c) The Controller may prescribe those forms and reporting
24 requirements as are necessary to implement the tax, including, but
25 not limited to, information regarding the total amount of tax due,
26 the place for filing any return, declaration, statement, or other
27 document required pursuant to this part and for the payment of the
28 tax.

29 (d) The estate tax returns required by this chapter shall be filed
30 within nine months after the date of the decedent's death.

31 15005. (a) The personal representative shall pay to the
32 Controller the full amount of the estate tax when due, out of any
33 moneys belonging to the estate in the personal representative's
34 control.

35 (b) The personal representative shall have the same powers and
36 duties with respect to the raising of funds for the payment of the
37 estate tax as conferred upon an executor pursuant to Sections 2205,
38 2206, 2207A, and 2207B of the Internal Revenue Code and
39 pursuant to the laws of this state in the case of raising funds for
40 the payment of a decedent's debts generally. Any provision in a

1 decedent's will (or revocable trust) in which a decedent effectively
2 waives a right of recovery under a section of the Internal Revenue
3 Code referred to in the preceding sentence shall be deemed a waiver
4 of the corresponding right of recovery under this section, unless
5 the will or revocable trust specifically states otherwise.

6 (c) The personal representative of a decedent's estate, or any
7 part thereof, which is taxable under this part is personally liable
8 for the payment of the estate tax. In addition to personal liability
9 for payment of the estate tax, any personal representative failing
10 to perform the duties under this part shall forfeit any right to any
11 payment for settling the estate of the decedent.

12 15006. (a) The tax imposed by this part shall be a special lien
13 upon the gross estate of a resident decedent and upon the real and
14 tangible personal property of a nonresident decedent situated in
15 this state at the time of the decedent's death for 10 years from the
16 ~~date of death. Any property for which a marital or charitable~~
17 ~~deduction was allowed for federal estate tax purposes shall be~~
18 ~~exempt from the lien provided by this subdivision. date of death~~
19 ~~or the date of filing, whichever is later.~~

20 (b) Notwithstanding subdivision (a), the special lien shall be
21 extinguished under either of the following circumstances:

22 (1) As to the part of the gross estate sold for the payment of
23 charges against the estate and expenses of its administration.

24 (2) Upon determination by the board that the estate tax return
25 has been filed and the correct tax has been paid, or that no estate
26 tax return or tax was due.

27 15007. *If a transfer is subject to subdivision (a) of Section*
28 *15006, the Controller, the attorney for the personal representative*
29 *of the estate, or a California probate referee, upon satisfactory*
30 *proof that no inheritance tax is due that would be a lien on the*
31 *property transferred by reason of the death of the transferor, may*
32 *release all or any portion of the property from any lien imposed*
33 *by this part to which the property might otherwise be subject. A*
34 *certificate by the Controller, the attorney for the personal*
35 *representative of the estate, or a California probate referee to the*
36 *effect that any property or interest in that property has been*
37 *released from any lien imposed by this part shall be conclusive*
38 *evidence as to any bona fide purchaser, encumbrancer, or lessee*
39 *of that property, that the property described in the certificate has*
40 *been released.*

1 ~~15007.~~

2 15008. A tax shall not be imposed by this part for any period
3 for which a federal estate tax is payable to the United States and
4 federal tax laws allow a credit for state death taxes in an amount
5 equal to or greater than the tax that would otherwise be imposed
6 by this part. During any period that a tax is not imposed by this
7 part, a tax shall be imposed in accordance with Part 8 (commencing
8 with Section 13302).

9 15009. *(a) There are exempted from the taxes imposed by this*
10 *part the total value of all agricultural real property and*
11 *agricultural personal property, if the agricultural real property*
12 *and agricultural personal property have an aggregate value that*
13 *exceeds 50 percent of the total value of the estate.*

14 *(b) If 35 percent or more of the aggregate value of the estate*
15 *consists of agricultural real property and agricultural personal*
16 *property, the taxes imposed by this part may be paid by installment*
17 *plan over 14 years and nine months, with interest due only for the*
18 *first five years.*

19 *(c) To qualify for an exemption pursuant to subdivision (a) or*
20 *an installment plan pursuant to subdivision (c), the agricultural*
21 *real property shall be maintained in agricultural production for*
22 *a minimum of 10 years after the decedent's death. If the*
23 *agricultural real property is not used for agricultural production*
24 *during that time, or if the agricultural real property is sold to a*
25 *nonfamily member of the decedent, that agricultural real property*
26 *shall be subject to the estate tax. If a portion of the agricultural*
27 *real property is sold to a nonfamily member of the decedent, only*
28 *that portion of the agricultural real property and agricultural*
29 *personal property that is sold shall be subject to the estate tax.*

30 *(d) For purposes of this section, the following definitions apply:*

31 *(1) "Agricultural real property" means property consisting of*
32 *lands and buildings, and anything affixed to the land, used in the*
33 *commercial production of agricultural commodities. "Agricultural*
34 *real property" includes, but is not limited to, barns, coolers,*
35 *hullers, packing sheds, offices, warehouses, and other buildings*
36 *owned by an individual engaged in a line of business described in*
37 *Code 11 of the North American Industrial Classification System*
38 *(NAICS) published by the United States Office of Management*
39 *and Budget, 2007 Edition.*

1 (2) “Agricultural personal property” means property that is
2 not affixed to or associated with the land and that is owned by an
3 individual engaged in a line of business described in Code 11 of
4 the North American Industrial Classification System (NAICS)
5 published by the United States Office of Management and Budget,
6 2007 Edition. “Agricultural personal property” includes, but is
7 not limited to, farm equipment, machinery, office furniture and
8 equipment, cars, and trucks purchased and used by an individual
9 or business in the commercial production of agricultural
10 commodities.

11 ~~15008.~~

12 15010. All moneys collected under this part shall be deposited
13 in the State Treasury for the credit of the Estate Tax Fund
14 established by Section 14301.

15 ~~15009.~~

16 15011. This part shall be administered and implemented in
17 accordance with Part 8 (commencing with Section 13302) to the
18 extent not in conflict with this part.

19 SEC. 6. Sections 1 to 5, inclusive, of this act may be amended
20 by a bill passed by a $\frac{2}{3}$ vote of the membership of both houses of
21 the Legislature and signed by the Governor.

22 SEC. 7. (a) As an amendment of an initiative statute, Sections
23 1 to 6, inclusive, of this act shall become effective only upon
24 approval by the voters at a statewide election.

25 (b) A special election is hereby called, to be held throughout
26 the state on the date of the next statewide election, for approval
27 by the voters of Sections 1 to 6, inclusive, of this act. The special
28 election shall be consolidated with the statewide election to be
29 held. The consolidated elections shall be held and conducted in
30 all aspects as if there were only one election, and only one form
31 of ballot shall be used.

32 (c) Notwithstanding Section 9040 of the Elections Code, or any
33 other law, the Secretary of State shall, pursuant to subdivision (c)
34 of Section 10 of Article II of the Constitution, submit Sections 1
35 to 6, inclusive, of this act to the voters for their approval at the
36 consolidated statewide election.

37 SEC. 8. This act calls an election within the meaning of Article
38 IV of the Constitution and shall go into immediate effect.

O